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No. 74-568

In the

Supreme Court of the United States

OCTOBER TERM, 1974

LUTHER ESTEP, a Minor, by JAMES STANLEY, His Legally Appointed Guardian,

Petitioner,

vs.

JANLER PLASTIC MOLD CORPORATION,

Respondent.

ANSWER TO PETITION FOR A WRIT OF CERTIORARI

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This case involved an injury to an employee of the defendant who was injured while acting in the scope of his employment. At that time the employee was 17 years old (R. 38) and was subject to the terms of the Illinois Workmen's Compensation Act.

Under the Illinois Workmen's Compensation Act employers who fall under the act are liable without fault and are required to pay their employees Workmen's Compensation benefits as specified under the Act. The Illinois Workmen's Compensation Act provides that with respect to one class of employees, "illegally employed minors", such minors are permitted to reject the Illinois Work-

men's Compensation Act and sue their employers at common law, Ch. 48, §148.5 (Ill. Rev. Stat. 1973). Under Illinois law "illegally employed minors" are minors under 16 years of age (Ill. Rev. Stat. 1973, Ch. 48, ¶31.1). Since Luther Estep was 17 years old at the time of his injury, he was not an "illegally employed minor" under the laws of Illinois (see Illinois Appellate Court opinion at pages 4a-5a of Plaintiff's Petition for a Writ of Certiorari). Accordingly the provision relied upon by the plaintiff as setting forth a constitutional issue to be heard by this court does not apply to this plaintiff.

Contrary to plaintiff's assertion that this minor employee is treated differently from all other minor employees, the fact is that this employee was not an illegally employed minor under Illinois law and he was treated exactly like all other employees over 15 years old who are subject to the Illinois Workmen's Compensation Act.

With respect to the argument that this minor plaintiff has been deprived of his constitutional rights, any examination of the Illinois statute shows that this contention is incorrect. All employees, adult or minor, are treated exactly alike under the law of Illinois and all are entitled to receive Workmen's Compensation benefits for injuries incurred during the course of their employment. The one class of employees which are given additional rights are "illegally employed minors" who are given the special privilege of rejecting Workmen's Compensation benefits and proceeding with an action at common law. However, this special class is limited to minors under 16 years of age (Ch. 48 ¶31.1, Ill. Rev. Stat. 1973) and the legislature has specifically set forth the requirements to obtain these additional rights (Ch. 48, §138.5, Ill. Rev. Stat. 1973).

It is clear that neither the Illinois courts or the Illinois Legislature have deprived this plaintiff of any common law rights, but on the contrary, this plaintiff has been treated in the same manner as all other employees, 16 years of age or older.

CONCLUSION

This case does not involve any issue requiring a decision by this court. Under the facts of this case the decisions by the Illinois Supreme and Appellate Courts are correct. Plaintiff's Petition for a Writ of Certiorari should not be granted.

Respectfully submitted,

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